

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROXANNE DILUIGI,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner  
of Social Security,

Defendant.

CIVIL ACTION

No. 08-645

**ORDER**

**AND NOW**, this 2 day of April, 2009, after review of the Report and Recommendation of United States Magistrate Judge Elizabeth T. Hey, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**.
2. The final decision of the Commissioner denying disability benefits to Roxanne DiLuigi is **VACATED**; and
3. The matter is **REMANDED** to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g),<sup>1</sup> for further proceedings consistent with Judge Hey's Report and Recommendation, in particular Judge Hey's instruction that the Commissioner "act on an expedited basis in further addressing the question of substantial gainful activity at step one and, if necessary, in proceeding to consider the remaining steps of the five-step evaluation process."

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<sup>1</sup> Because the remand is pursuant to sentence four of § 405(g), a separate judgment shall also be entered. *See Kadelski v. Sullivan*, 30 F.3d 399, 402 (3d Cir. 1994); *Shalala v. Schaefer*, 509 U.S. 292, 296-98 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89, 101-02 (1991).

BY THE COURT:

/s/ Louis H. Pollak  
Pollak, J.

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**JUDGMENT**

**AND NOW**, this 2 day of April, 2009, in accordance with *Kadelski v. Sullivan*, 30 F.3d 399 (3d Cir. 1994), and Rule 58 of the Federal Rules of Civil Procedure, it is hereby **ORDERED** that **JUDGMENT** is entered **VACATING** the final decision of the Commissioner of Social Security and **REMANDING** this action to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with my Order of today.

BY THE COURT:

/s/ Louis H. Pollak

Pollak, J.